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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,815	04/15/2004	Swec Cheau Chong	46623-0300442	6678
27496	7590	10/05/2007		
PILLSBURY WINTHROP SHAW PITTMAN LLP			EXAMINER	
P.O BOX 10500			GRAY, PHILLIP A	
McLean, VA 22102				
			ART UNIT	PAPER NUMBER
			3767	
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			10/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/824,815	Applicant(s) CHONG ET AL.	
	Examiner Phillip Gray	Art Unit 3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5,6,8-10,12,13,15,17,19-21,23,24,26,29,31-33 and 35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,6,8-10,12,13,15,17,19-21,23,24,26,29,31-33 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to applicant's communication of 1/25/2007.

Currently amended claims 1,3, 5-6, 8-10,12-13,15, 17, 19-21,23-24,26,29,31-33, and 35 are pending and stand rejected below.

Response to Arguments

Applicant's arguments filed 7/16/2007 have been fully considered but they are not persuasive. Applicant argues that the newly amended claim limitation of " said pair of flexible extension arms each having a shoulder that extends from said hub at approximately a center of said hub, said pair of flexible extension arms extending toward the distal end of the hub".

It is examiners position that the Shaw prior art of record does disclose this added claim limitation. Examiner draws attention to figure 2 of the Shaw '679 patent and " said pair of flexible extension arms (of element 40) each having a shoulder (near 14) that extends from said hub (32) at approximately a center of said hub, said pair of flexible extension arms extending toward the distal end of the hub (toward lower distal end in figure 2)". Therefore it is examiners positon that the arguments and the newly added amendments do not overcome the prior art of record. Further Examiner is of the position that the "cannula" is rotatable relative to the shealth at a first position.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1,3, 5-6, 8-10,12-13,15, 17, 19-21,23-24,26,29,31-33, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw (U.S. Patent Number 5,779,679) in view of Shaw (U.S. Patent Number 6,210,371). Shaw discloses a multifunctional safety infusion set with injection needle retractable in a wing-equipped sheath comprising: a hub (32, 34) having a distal end, a proximal end, and an axial through hole (36), further supporting a pair of flexible extension arms (arms of 40); a cannula (16) joined to said hub adjacent the distal end of said hub, said cannula having a beveled edge (17) at a distal end thereof; a cylindrical sheath (27) attached thereto, said cylindrical sheath retaining said hub therein and having a distal end and a proximal

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end, said hub being slidable along an inner surface of said cylindrical sheath from a first position at which the distal end of said cannula joined to said hub projects beyond the distal end of said cylindrical sheath by a predetermined length (see position at figure 1), to a second position at which said distal end of the cannula is protectively contained within said cylindrical sheath (see figure 2 position); a pair of flexible wings (18, 20) provided on the outer peripheral surface adjacent the distal end of said cylindrical sheath; and a first locking mechanism and a second locking mechanism (48,47 and 44) disposed on said assembly, whereby said first locking mechanism (44) releasably locks said hub and said cylindrical sheath at the first position, and said second locking mechanism (47,48) unreleasably locks said hub and said cylindrical sheath at the second position (figure 2). Further Shaw discloses the first locking mechanism (44) comprises a pair of flexible extension arms supported by said hub (arms 40) and a groove (identified above) formed on the inner surface of the proximal end of said cylindrical sheath, wherein when said hub is at the first position in relation to said cylindrical sheath a pair of tips of said pair of flexible extension arms releasably engages the groove and the locking tab releasably engages a proximal end of the flexible extension arms (see figure 1 and 2). Shaw discloses a pair of slots formed in the proximal end of said cylindrical sheath (see above), wherein when said hub is at the second position in relation to said cylindrical sheath a pair of tips of said pair of flexible extension arms unreleasably engages said pair of slots. The Shaw flexible extension arms extend from approximately a center of the hub toward the distal end of the hub (fig 3). Further the cannula of Shaw is rotateable relative to the cylindrical sheath. The

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Shaw winged needle assembly has a hub marked to indicate an orientation of the bevel edge of the cannula relative to the cylindrical sheath (as in contoured form in figure 5).

Shaw discloses a winged needle assembly with a locking tab (20 as in figure 1) that includes a projection (50) that is inserted through a slot in the cylindrical sheath to releasably engage the proximal end of the pair of flexible extension arms (40 in figure 1).

It is examiners position that these locking tabs are fully capable of being rotatable over at least a 180-degree arc (fig 5 and 6 show living hinge). But in the alternative if not inherently or implicitly in the Shaw reference it would have been an obvious modification to increase the locking tab rotatable range to at least 180 degrees since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233 (CCPA 1955). In Shaw it is not known what the full rotatable range is of element 20, and if not fully anticipating a rotatable range of 180, it would be an obvious modification to increase the range to 180 or more in order to provide a flexible, resilient and deformable mechanism for locking and releaseability.

Claim Objections

Claim24 is objected to because of the following informalities: examiner is unclear if the "cannula" is rotatable or the "conical shaped head" is rotatable (see newly added claim language. Appropriate correction is required.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gray whose telephone number is (571) 272-7180. The examiner can normally be reached on Monday through Friday, 8:30 a.m. to 4:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PLS
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Kevin C. Simons

KEVIN C. SIMONS
SUPERVISORY PATENT EXAMINER